



**CITY OF SUNNYVALE
REPORT
Administrative Hearing**

September 24, 2008

SUBJECT: **2008-0881: Valero** [Applicant] **Mohan S and Hardev K Dhanota** [Owner]: Application for a property located at **698 N Fair Oaks Avenue** (at Caliente Dr) in a C-1/PD (Neighborhood Business/Planned Development) Zoning District.

Motion Special Development Permit to allow the sale of beer and wine at an existing gas station and convenience store.

REPORT IN BRIEF

Existing Site Conditions Automobile service station with convenience store

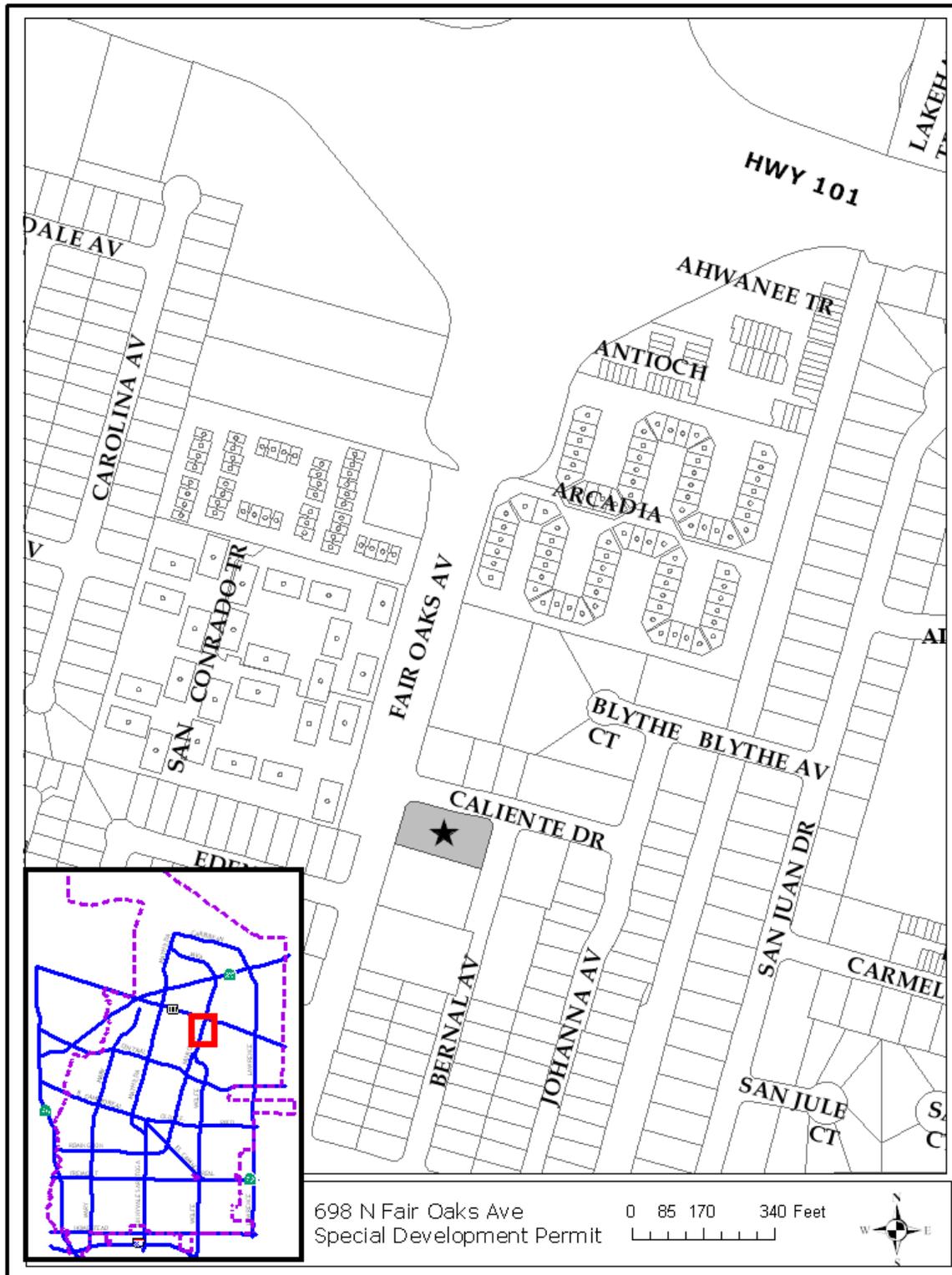
Surrounding Land Uses

North	Commercial
South	Commercial
East	Residential
West	Residential

Issues Off-site sales of beer and wine

Environmental Status A Class 1 Categorical Exemption relieves this project from California Environmental Quality Act provisions and City Guidelines.

Staff Recommendation Approve with conditions



698 N Fair Oaks Ave
Special Development Permit

0 85 170 340 Feet



PROJECT DATA TABLE

	EXISTING	PROPOSED	REQUIRED/ PERMITTED
General Plan	Commercial Neighborhood	Same	Commercial Neighborhood
Zoning District	C-1/PD	Same	C-1/PD
Lot Size (s.f.)	26137	Same	No min.
Gross Floor Area (s.f.)	2100	Same	No max.
Lot Coverage	8%	Same	No max.

ANALYSIS**Description of Proposed Project**

The applicant proposes to offer the off-site sale of beer and wine at an automobile service station's existing convenience store. Beer and wine sales will occur from existing coolers and shelves within the store. No physical changes are proposed to the interior or exterior of the structure.

Background

Previous Actions on the Site: The following table summarizes previous planning applications related to the subject site.

File Number	Brief Description	Hearing/Decision	Date
2008-0034	Miscellaneous Permit to allow grocery sales at an existing service station	Admin Hearing/Approved	1/23/2008
2000-0395	Miscellaneous Plan Permit to replace signs	Staff Review/Approved	8/1/2000
1994-0083	Miscellaneous Plan Permit to allow new gas pumps	Staff Review/Approved	9/8/1994

Environmental Review

A Class #1 Categorical Exemption relieves this project from California Environmental Quality Act provisions and City Guidelines. Class # 1 Categorical Exemptions include minor modifications at existing facilities.

Use Permit

Site Layout: The subject site is located on the corner of Fair Oaks Avenue and Caliente Drive and has driveways taking access off both streets. There is a single fuel canopy on the west of the property having six fuel pumps. A 2,100 square foot convenience store is located on the east of the property with parking to the north along the site's Caliente Drive frontage. Adjacent uses along Fair Oaks Avenue and Caliente Drive are commercial.

Compliance with Development Standards/Guidelines: The proposed project complies with all applicable development standards and guidelines. Off-site sales of beer and wine may be allowed at an automobile service station with approval of a Special Development Permit provided three findings can be made:

- 1) The service station may not be located within 500 feet of another use with off-site alcohol sales;
- 2) The service station may not result in a concentration of more than four businesses with off-site sales of alcohol within a 1000-foot radius; and
- 3) The service station may not be located within 500 feet of a public park or public school.

If any of the above three findings are not met, the permit can only be granted if three additional findings are also met:

- a) The project will not adversely affect persons residing or working in surrounding areas;
- b) The project will not adversely affect surrounding property values; and
- c) The project will not be detrimental to public health, safety, and welfare.

The proposed project is located within 500 feet of another use with off-site alcohol sales. Therefore, the three additional findings (a-c) must be made. Staff believes these findings can be made for the proposed project. The City's Department of Public Safety has inspected the subject site including existing security measures and does not believe the addition of alcohol sales will be detrimental to surrounding persons or properties, nor will it be detrimental to the public health, safety, or welfare. To ensure negative impacts do not result, SMC section 19.98.020 requires that off-site sales of beer and wine at an automobile service station must comply with the following requirements: no beer or wine shall be displayed within 5 feet of the cash register or front door unless inside a permanently-affixed cooler; no advertisements for beer or wine shall be displayed at motor fuel islands; and employees on duty between the hours of 10:00 p.m. and 2:00 a.m. who sell beer or wine shall be at least 21 years old. Staff has added these items as Condition of Approval #3 (Attachment B).

Expected Impact on the Surroundings: The proposed use is not expected to have a negative impact on surrounding residents, properties, or uses. The proposed sales would occur along with grocery sales in the existing convenience store. Adequate site security is in place to discourage loitering, theft, on-site consumption of alcoholic beverages, and other unpermitted activities.

Fiscal Impact

No fiscal impacts other than normal fees and taxes are expected.

Public Contact

One email was received by a community member that is not in support of beer and wine sales being provided at the existing service station.

Notice of Negative Declaration and Public Hearing	Staff Report	Agenda
<ul style="list-style-type: none"> • Published in the <i>Sun</i> newspaper • Posted on the site • 373 notices mailed to the property owners and residents within 300 ft. of the project site 	<ul style="list-style-type: none"> • Posted on the City of Sunnyvale's Website • Provided at the Reference Section of the City of Sunnyvale's Public Library 	<ul style="list-style-type: none"> • Posted on the City's official notice bulletin board • City of Sunnyvale's Website

Conclusion

Findings and General Plan Goals: Staff was able to make the required Findings based on the justifications for the Special Development Permit. Findings and General Plan Goals are located in Attachment A.

Conditions of Approval: Conditions of Approval are located in Attachment B.

Alternatives

1. Approve the Special Development Permit with the conditions listed in Attachment B.
2. Approve the Special Development Permit with modified conditions.
3. Deny the Special Development Permit.

Recommendation

Alternative 1.

Prepared by:

Laura Gurney
Project Planner

Reviewed by:

Andrew Miner
Principal Planner

Attachments:

- A. Recommended Findings
- B. Recommended Conditions of Approval
- C. Site and Floor Plans
- D. Letters from Other Interested Parties

Recommended Findings – Special Development Permit

Goals and Policies that relate to this project are:

Land Use and Transportation Element – Policy C4.1

Maintain a diversity of commercial enterprises and industrial uses to sustain and bolster the local economy.

Land Use and Transportation Element – Action Statement C4.1.3

Promote commercial uses that respond to the current and future retail service needs of the community.

Land Use and Transportation Element – Action Statement N1.13.2

Support convenient neighborhood commercial services that reduce automobile dependency and contribute positively to neighborhood character.

Law Enforcement Sub-Element – Goal 4.1A

Provide a safe and secure environment for people and property in the community.

Required findings for Use Permits:

1. The proposed use attains the objectives and purposes of the General Plan of the City of Sunnyvale. *[Finding made]*

The proposed addition of beer and wine sales would provide additional retail services for neighborhood residents, and is not anticipated to have a negative impact on surrounding properties or uses.

2. The proposed use ensures that the general appearance of proposed structures, or the uses to be made of the property to which the application refers, will not impair either the orderly development of, or the existing uses being made of, adjacent properties. *[Finding made]*

The proposed beer and wine sales would occur along with the currently permitted sale of other grocery items at the convenience store. As conditioned, measures would be taken to protect against sale of beer and wine to, or theft of beer and wine by, persons under the age of 21. There are three other sites within a 1000-foot radius offering the off-site sale of beer and wine; however, the proposed sales are not expected to result in an over-concentration of alcohol sales in the area. The site has existing security measures including lighting and clear visibility into and out of the store to discourage loitering, on-site consumption of alcoholic beverages, and other unpermitted activities. As a

result, the proposed use would not result in negative impacts on surrounding properties or uses.

Additional required findings for the sale of beer and wine at automobile service stations:

1. The proposed site must be at least 500 feet from a use with off-site sales of alcohol, unless additional findings can be made that the proposed new sales :
 - a. will not adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding areas; and
 - b. will not impair the value of property of other persons located in the vicinity of the area; and
 - c. will not be detrimental to the public health, safety or welfare.
[Findings made]

There are existing businesses within 500 feet of the subject site which offers off-site sales of alcohol, requiring the findings above (a-c) to be made. These findings can be made. The proposed off-site sale of beer and wine would occur along with the currently permitted sale of other grocery items at the convenience store. As conditioned, measures would be taken to protect against sale of beer and wine to, or theft of beer and wine by, persons under the age of 21. There are 3 other sites within a 500-foot radius offering the off-site sale of beer and wine, which the proposed sales are not expected to result in an over-concentration of alcohol sales in the area. The site has existing security measures including lighting and clear visibility into and out of the store to discourage loitering, on-site consumption of alcoholic beverages, and other unpermitted activities. As a result, the proposed use would not negatively impact surrounding residents, would not impair surrounding property values, and would not be detrimental to the public health, safety, or welfare.

2. The proposed site will not exceed a concentration of more than four businesses with off-site sales of alcohol within a 1000-foot radius, unless the findings above (1.a - 1.c) can be made. *[Finding made]*

The proposal will result in a total of four sites licensed for off-site alcohol sales within a 1000-foot radius.

3. The proposed site shall not be located closer than 500 feet from any public park or public school unless the above findings (1.a - 1.c) can be made. *[Finding made]*

The subject site is not located within 500 feet of a park or school.

Recommended Conditions of Approval – Special Development Permit

In addition to complying with all applicable City, County, State and Federal Statutes, Codes, Ordinances, Resolutions and Regulations, Permittee expressly accepts and agrees to comply with the following conditions of approval of this Permit:

Unless otherwise noted, all conditions shall be subject to the review of approval of the Director of Community Development.

1. GENERAL CONDITIONS

- A. Execute a Special Development Permit document prior to issuance of the building permit.
- B. Project shall be in conformance with the plans approved at the public hearing(s). Minor changes may be approved by the Director of Community Development, major changes may be approved at a public hearing.
- C. The Special Development Permit for the use shall expire if the use is discontinued for a period of one year or more.
- D. The Special Development Permit will be null and void two years from the date of approval by the final review authority at a public hearing if the approval is not exercised, unless a written request for an extension is received prior to expiration date.

2. COMPLY WITH OR OBTAIN OTHER PERMITS

- A. Obtain Building permits if required for any proposed equipment installation or other building modifications.
- B. Obtain all appropriate permits and/or licenses from the Department of Alcoholic Beverage Control (ABC).
- C. Comply with all requirements of the previously approved Miscellaneous Plan Permit (#2008-0034) related to grocery sales at the existing service station.

3. OFF-SITE SALE OF BEER & WINE

- A. No beer or wine shall be displayed within 5 feet of the cash register or front door unless it is inside a permanently-affixed cooler.
- B. No advertisement of alcoholic beverages shall be displayed at motor fuel islands.
- C. Employees on duty between the hours of 10:00 p.m. and 2:00 a.m. who sell beer or wine shall be at least 21 years old.

- D. The sale of single servings of beer or wine is prohibited.
- E. Prior to the Department of Community Development approving any licensing by the California Department of Alcoholic Beverage Control, the applicant shall be in compliance with all conditions of approval of the previous permit #2007-1320 that are related to security measures, including lighting and a panic alarm.
- F. The site shall be maintained in a clean manner free of debris and noise to avoid impacts on adjacent residential uses.